



New Jersey Department of Children and Families Policy Manual

| | | | |
|-------------|------|--|--------------------------|
| Manual: | CP&P | Child Protection and Permanency | Effective |
| Volume: | IV | Out of Home Placement | Date: 7-21-14 |
| Chapter: | A | General Placement | Revised Date: 2-19-19 |
| Subchapter: | 11 | Home Selection | |
| Issuance: | 200 | Placement of Children with Kinship Caregivers Who Are Undocumented Immigrants | |

Purpose:

This issuance establishes the policy and procedures on the out-of-home placement of children with kinship caregivers who are undocumented immigrants or in kinship homes with undocumented immigrants as household members.

Authority:

- N.J.S.A. §9:3A-1 et seq. - Executive Authority
- N.J.A.C. §3A:51-1.1, 2.2
- N.J.S.A. §30:4C-26.9
- N.J.S.A. §30:4C-27.6

Policy:

A) Placement with Kinship Caregivers Who Are Undocumented Immigrants

A child may be placed with kinship caregivers who are undocumented immigrants or otherwise do not have permanent legal status in the United States when the placement is in the child's best interests. A waiver of the home study requirement N.J.A.C. §3A:51-5.3(a)(1)(ii) which states that the resource family parent or applicant shall provide "[a] visa or United States [Citizenship and Immigration Services] documentation as evidence of legal residency, if the resource family parent or applicant is not a citizen of the United States," shall be approved by the Office of Licensing.

The undocumented resource parent or applicant shall provide a back-up adult who can act as a support for the child if the proposed resource parent becomes unavailable. Wherever possible, that back-up adult shall have legal status in the United States.

B) Presumptive Eligibility

A child may be placed presumptively with a kinship caregiver who is an undocumented immigrant or who otherwise does not have permanent legal status in the United States provided that all requirements for presumptive eligibility as stated in [CP&P IV-B-2-125](#) and N.J.A.C. §3A:51-2.1(e) have been met. The Local Office Manager and Area Director shall be notified of the undocumented status of the kinship caregiver and shall approve the placement before the child can be placed in the home.

C) Undocumented Household Member

A child may be placed in the home of a kinship caregiver when one or more persons residing in the home is undocumented provided the requisite background checks are conducted of the individual(s) pursuant to the “Placing Children with Kinship Caregivers” policy [CP&P-IV-B-1-125](#) and all other requirements of N.J.A.C. §3A:51-2.1(e) are met.

D) Licensing

To provide resource care, the kinship home shall be licensed. Licensing the home requires that the resource family parent or applicant and any adult member of the home undergo a full Criminal History Record Information (CHRI) check through fingerprinting by the State Police. The undocumented caregiver or member of the resource family home will need government issued photo identification to be fingerprinted. Additionally, as discussed above, a waiver of [N.J.A.C. §3A:51-5.3\(a\)\(1\)\(ii\)](#) shall be submitted when a kinship caregiver is undocumented.

E) Subsidy Payment Requirements

Undocumented immigrants cannot be paid a resource or adoption subsidy until they have obtained an Individual Taxpayer Identification Number (ITIN) from the

IRS. No subsidy shall be paid or owed to caregivers unable to obtain an ITIN. CP&P shall not provide a subsidy to a person presenting a social security number or ITIN assigned to a person other than the specified caregiver.

F) Title IV-E Claiming

DCF shall not be permitted to claim federal funds under Title IV-E of the Social Security Act for the placement of any undocumented immigrant child, nor shall DCF be permitted to claim such funds for the placement of a non-citizen legal resident child who has resided in the country less than five years with undocumented immigrant caregivers. To avoid errors in claiming, the Resource Family Support unit shall notify the Administrator of the Title IV-E unit upon making any such placement.

Procedures:

1) Evaluating Placement with Undocumented Immigrant Caregivers

In all placements, the best interests of the child are the paramount concern. In addition to the evaluation undertaken for all other placements, Workers shall consider the unique challenges faced by undocumented immigrants when considering placement of a child in such a home. Undocumented immigrants are at risk of unanticipated detention and removal from the United States at any time, and their ability to provide long term stability for children in their care is therefore inherently uncertain.

Workers shall weigh these concerns when determining whether to place with undocumented caregivers. This is also a reason that Workers shall request that an undocumented caregiver identify a back-up support that could provide for the child in case of detention and/or removal from the United States. That back-up caregiver should confirm to the Worker their commitment to provide for the child in case of emergency. Additionally, Workers should encourage undocumented caregivers to seek legal counsel to determine if they are eligible for legal status in the United States.

2) Approval Process for Placement with Undocumented Immigrant Caregivers

Before a child is placed with an undocumented caregiver, approval for the placement shall be obtained from the Local Office Manager and Area Director.

3) Obtaining an Individual Taxpayer Identification Number

An ITIN is obtained from the Internal Revenue Service (IRS) using IRS Form W-7. Workers should direct potential applicants to the IRS at 1-800-829-1040 or <https://www.irs.gov> for assistance completing and filing the form. An individual does not need legal status to apply for and be granted an ITIN by the IRS.

4) Fingerprinting

To obtain government-issued identification for fingerprinting, the Worker should request copies of the undocumented caregiver's or household member's identification: foreign passport, consular ID, foreign birth certificate, etc. Once provided, the Worker should reach out to the Office of Legal Affairs to determine if there is a municipal ID program in the individual's area that he/she can utilize or whether to pursue a DCF-issued ID for purposes of fingerprinting.

5) Waiver

Whenever the primary or secondary resource family applicant is undocumented, a waiver of home study requirement N.J.A.C. §3A:51-5.3(a)(1)(ii) shall be sought as outlined in [CP&P-IV-B-2-300](#).

6) Reporting of Ineligible Placements to the Title IV-E Unit

When a non-citizen child who has resided in the country legally for fewer than five years is placed with undocumented immigrant caregivers, the Resource Family Unit must report that placement to the Title IV-E Unit by email within 72 hours. Any change in the immigration status of such child or caregiver must subsequently be reported to the Title IV-E Unit.

Key Terms (Definitions):

"Undocumented Immigrant" means any person residing or remaining in the United States without a legal right to do so.

Forms and Attachments:

- [IRS Form W-7](#), Application for IRS Individual Taxpayer Identification Number

Related Information:

- [CP&P-IV-B-2-125](#)

Policy History:

- New Policy – 7-21-14